

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ELI MISTOVICH, JR.)	
Plaintiff)	
)	
v.)	C.A. No. 04-12340-EFH
)	
ELIZABETH BOWDEN, STEPHEN)	
URBAN, STEPHEN NEVERO and)	
ALISON LEATON)	
Defendants)	
)	

**MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS ELIZABETH BOWDEN,
STEPHEN URBAN AND STEPHEN NEVERO**

Defendants Elizabeth Bowden, Stephen Urban and Stephen Nevero (collectively, “defendants”)¹ hereby moves this Court for summary judgment on plaintiff’s complaint. Plaintiff asserts that the individual defendants wrongfully interfered with his employment relationship with the Massachusetts Bay Commuter Railroad (“MBCR”). Summary judgment should issue in the defendants’ favor because plaintiff’s claim is based entirely on unsupported speculation.

Plaintiff became an employee of MBCR on July 1, 2003, and was terminated nine months later, on March 30, 2004, after MBCR concluded that he was discriminating against African-Americans seeking jobs with MBCR. Recruiter Alison Leaton had reported to MBCR's head of human resources, Elizabeth Bowden, a concern that Mistovich was improperly screening out job applicants. After investigation, MBCR concluded that Leaton's allegations were correct and MBCR General Manager Kevin Lydon decided to terminate Mistovich's employment. Out of these uncontested facts, Mistovich brings claims of intentional interference with contractual relations against Leaton and three of the individuals who investigated Leaton's allegations

¹ Alison Leaton was never served with the complaint and thus was never made a party to this action.

(Bowden, Nevero and Urban). Defendants' actions – whether in investigating Leaton's allegations or participating in the termination decision – were privileged as a matter of law and can give rise to no individual liability.

In further support of this motion, the defendants refer the court to the statement of undisputed facts and the memorandum of law filed simultaneously herewith.

WHEREFORE, the defendants respectfully request that summary judgment be granted in their favor.

Respectfully submitted,

**ELIZABETH BOWDEN, STEPHEN
URBAN and STEPHEN NEVERO,**

By their attorneys,

/s/ Laurie F. Rubin

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